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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/763,387	04/18/2001	Paul Brand	P01.0064	5055

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EXAMINER

OROPEZA, FRANCES P

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 07/11/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/763,387

Applicant(s)

BRAND ET AL.

Examiner

Frances P. Oropeza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-13, 16 and 17 is/are rejected.
- 7) ☒ Claim(s) 14 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 5/27/03 (figure 3) is: a) ☒ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. Claims 7 and 10 stand rejected under 35 U.S.C. 102(b) as being anticipated by Schiff (US 5383913) for the reasons of record.

Schiff discloses a metal sleeve (48), read as metallic tubular member, disposed in a housing (30), containing a plurality of interior components (figure 3) to make electrical contact with the plug (18) (figures 2, 3, and 7).

As related to claim 10, the screw pin assembly area (51) of the connector socket (33) is read as the lateral opening. The internal tip of the threaded bore (50) provides the contact surface for the cathode contact (27), read as the internal component providing a contact surface the electrical connection between the tip cathode (22) and the wire (44) connecting the lead to the circuitry in the casing (figures 2 and 3; col. 7 @ 10-14).

As related to claim 11, the connector socket (33), read as the plug (26), is constructed of insulating material (47) (figures 2 and 3).

As related to claims 16, the plug (35) is representative of the locking arrangement.

The Applicant's arguments filed 5/27/03 have been fully considered but they are not convincing. The Applicant asserts Schiff does not disclose the claim element of a metallic housing having a first wall with a first opening therein and a second wall with a second opening therein. The Examiner disagrees. Schiff discloses pacemakers are comprised of two basic components, a pulse generator and leads (col. 1 @ 25-29). The pulse generator is contained in a metallic casing (col. 1 @ 56-58). The connector head is a portion of the pulse generator

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(col. 2 @ 37-39), hence the connector head is metallic. Figure 1 depicts the prior art pacemaker and connector head (col. 2 @ 48-49; col. 6 @ 38-61) and figure 2 depicts the invention, an improved connector head (col. 2 @ 62-66). Both figures 1 and 2 contain the same reference numerals indicating the Schiff invention is an improvement in the prior art. The materials of construction of the connector head in the prior art is metal, hence the improved connector head is metallic. As discussed by the Applicant, epoxy connector headers are frequently used in the pacemaker art. As disclosed in US 4991582 to Byers et al., metallic connector headers (36) are also known in the pacemaker art (figure 6; col. 6 @ 11-17). Schiff is deemed to disclose a metallic housing having a first wall with a first opening therein and a second wall with a second opening therein as shown in figure 2, connector head (30), hence the rejection of record stands.

Claim Rejections - 35 USC § 103

2. Claims 8, 9, 11, 12, and 13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Schiff (US 5383913) in view of Truex et al. (US 4934366) for the reasons of record.

As discussed in paragraph 1 of this action, Schiff discloses the claimed invention except:

- the tubes ends being bonded (claim 8) or welded (claim 9) to the housing,
- the plug being ceramic (claim 11), and
- the plug being mechanically attached (claim 11), soldered (claim 12) or bonded (claim 13).

As related to claims 8 and 9, Truex et al. teach implantable device component assembly using welding or bonding for the purpose of securing the barrel assembly to the device housing. It would have been obvious to one having ordinary skill in the art at the time of the invention to

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have used bonding or welding in the Schiff system in order to seal the tubular member to the device housing enabling the inside of the device to be hermetically sealed to protect the device from bodily fluids (figure 4 - (78); col. 6 @ 46-48; col. 3 @ 9-14).

As related to claim 11, Truex et al. teach inert materials of construction using ceramic for the purpose of providing system elements that will insulate system components and not conduct electricity. It would have been obvious to one having ordinary skill in the art at the time of the invention to have used ceramic as the electrically inert material in the Schiff system in order to provide a material that can be effectively hermetically sealed to protect the device from bodily fluids. (col. 5 @ 37-44).

As related to claims 11, 12 and 13, Truex et al. teach ceramic component mounting using mechanical attachment, soldering or bonding for the purpose of securing the ceramic component in position. It would have been obvious to one having ordinary skill in the art at the time of the invention to have used mechanical attachment, soldering or bonding to secure the ceramic components in the Schiff system in order to provide securely connected components that can be effectively hermetically sealed to protect the device from bodily fluids. (col. 5 @ 37-44; col. 6 @ 64 - col. 7 @ 6; col. 7 @ 40-46).

5. Claims 16 and 17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Schiff (US 5383913) in view of Peers-Trevarton (US 4784141) for the reasons of record.

As discussed in paragraph 2 of this action, Schiff discloses the claimed invention except for an at least partially removable locking arrangement in the second tube end. Peers-Trevarton teaches lead confinement using a lead locking mechanism (44) for the purpose of securing the lead in the cardiac pacer header. Several locking mechanism components, the screw (52) and cap (56), are

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removable. It would have been obvious to one having ordinary skill in the art at the time of the invention to have used a lead locking mechanism in the Schiff system in order to reduce the size of the cardiac pacer by reducing the thickness of the neck portion of the cardiac pacer to enable the smaller device to be implanted in the body relatively comfortably and inconspicuously (figures 7 and 10; col. 1 @ 31-36 and 60-64; col. 5 @ 19-37).

Allowable Subject Matter

3. Claim 14 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Statutory Basis

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Fran Oropeza, telephone number is (703) 605-4355. The Examiner can normally be reached on Monday – Thursday from 6 a.m. to 4:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Angela D. Sykes can be reached on (703) 308-5181. The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4520 for regular communication and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist, telephone number is (703) 308-0858.

Frances P. Oropeza
Patent Examiner 7/1/03
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ANGELA D. SYKES
SUPERVISORY PATENT EXAMINER
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